

7/28/73

The Attorney General
The Department of Justice
Washington, D.C.

Dear Mr. Attorney General,

After being referred to him by the office of the U.S. Attorney for the District of Columbia, under date of July 15, 1973 I wrote the Special Watergate Prosecutor, seeking copies of the released pages of the Washington grand jury testimony of E. Howard Hunt. Mr. Cox's reply of July 25 makes his "denial" specific and informs me that I may appeal his decision to you. This is that appeal.

After a lecture I did not require on the sanctity of grand jury proceedings, which is inherent in his letter, Mr. Cox invokes two inapplicable exemptions under 5. U.S.C. 553, investigatory files and statutory exemption. Both have been waived under the law if applicable at any earlier time. But is it the Department's interpretation of "investigatory files" that grand juries are included as such, rather than under the normal and proper grand jury secrecy?

Mr. Cox holds that the pages that were specifically released were not "released to the public by the Department of Justice or any of its divisions. To the extent that the minutes were disclosed in public court proceedings, they are a matter of public record and may be obtained from the transcript of these proceedings."

This position violates the letter and the spirit of the law, as set forth in The Attorney General's Memorandum on this law. It also denies me what I want and am entitled to under the law, the copies of the pages of the grand-jury transcript, not any other representation of them. Moreover, I believe it violates the Department's own directives (Memorandum, p. 24), which say that if the request is not made to the agency whose interest is "paramount" - and I believe that with pages from the transcript of a federal grand jury the Department does have this paramount interest - "the request should be referred [by the agency addressed] to the agency whose interest in the record is paramount."

Aside from the technicalities, in fact these opening pages of Mr. Hunt's testimony were, in fact, made available to the press in Washington. My request is limited to these pages. To this point, numerous and time-consuming obstacles have been placed in my path by the Department, which is improper under its own interpretation of the law, and it has violated its own Memorandum (p.25) further in doing this: "A copy of the requested record should be made available as promptly as is reasonable under the circumstances." Accordingly, if any charge was made for copies made available to the press, I would like to be informed of the cost and when I may pick up or have these pages picked up and where, at which time payment will be made. Or, I will send a check.

I shall also want to examine and perhaps have copies made of some pages to two addressbooks also made available to the press, perhaps in the trial. The U.S. Attorney's office told me Mr. Cox now has these. I would appreciate your making the arrangements.

Sincerely,

Harold Weisberg